

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Confirmation No.: 6737

Steven McCanne, et al.

Examiner: Joiya M. Cloud

Serial No.: 10/618,369

Group Art Unit: 2444

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For: SYSTEM FOR MULTIPONT INFRASTRUCTURE TRANSPORT IN A COMPUTER NETWORK

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Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTACHMENT FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

The following clear errors occur in the 35 USC § 102 (e) rejections of Claims 16, 18-24, 26 and 28-39, stated in the Final Office Action mailed April 14, 2010, citing Badovinatz et al., U.S. Patent No. 5,793,962 (“*Badovinatz*”). Independent Claim 16 is argued below; however the arguments apply to all independent claims.

I. *Badovinatz* fails to describe:

a request, from a node that is not a member of the multicast group, to run a query against the entries stored in the data store, wherein the query specifies matching criteria and wherein each entry comprises data to be transmitted from a rendezvous point of the multicast group to members of the multicast group;

Claim 16 recites “logic that receives, from a node that is not a member of the multicast group, a request to run a query against the entries stored in the data store, wherein the query specifies matching criteria, and wherein each entry comprises data to be transmitted from a rendezvous point of the multicast group to members of the multicast group.” Claim 16 also

recites “logic that disseminates one or more entries that satisfy the matching criteria to the node that is not a member of the multicast group.” The approach recited in Claim 16 allows a non-member to request running a query, having matching criteria, against the entries stored in the group data store, and to receive the entries that satisfy the matching criteria specified in the non-member’s query. According to Claim 16, even though the entries stored in the data store comprise data intended for transmission from a rendezvous point of the multicast group to group members, a non-member may query the data store and, while remaining the non-member, the non-member may receive the entries that satisfy the matching criteria.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 16 is not anticipated by *Badovinatz* because Claim 16 recites one or more features that are not described in *Badovinatz*.

The Office alleges that the plurality of entries in the data store, as recited in Claim 16, corresponds to *Badovinatz*’ membership list, a copy of which can be transmitted to the members of the group. (Final Office Action: page 4, ll. 6-10) The Office also alleges that a request, from a node that is not a member of the multicast group, to run a query against the entries in the data store, as claimed, corresponds to *Badovinatz*’ INQUIRY request received from the processors that are group members. (Final Office Action: page 4, ll. 12-14) This is incorrect because the allegation is based on clear factual errors.

A. *Badovinatz*’ INQUIRY request is not a request to run a query against the entries in the data store, wherein the query specifies matching criteria, as claimed.

While discussing *Badovinatz*, the Office Action misstates the features of *Badovinatz*. For example, on page 4, the Office Action alleges that in column 6 (ll. 19-22) *Badovinatz* teaches a plurality of entries in the data store, as recited in Claim 16, and in column 5 (ll. 63-65) and column 6 (ll. 1-9) *Badovinatz* teaches a request to run a query against the entries stored in

the data store, wherein the query specifies matching criteria, as recited in Claim 16. This is incorrect because in the cited excerpts, *Badovinatz* describes an INQUIRY request to test whether a processor is active, not a request to run a query against the entries stored in the data store, wherein the query specifies matching criteria, as claimed.

In *Badovinatz*, a new group leader is selected by the remaining members after a previous group leader was removed from the group for some reason. (*Badovinatz*: 5:50-55) To select a prospective new group leader, one or more group processors scan a group membership list.

(*Badovinatz*: 5:50-55) Then, the group processors determine whether the prospective leader is active by sending an INQUIRY “IS MEMBER ACTIVE” to the prospective leader.

(*Badovinatz*: 5:62-65) In one embodiment, the INQUIRY is handled by another subsystem, which sends a signal to the prospective leader. (*Badovinatz*: 6:1-9) Therefore, the INQUIRY is sent to test whether the prospective leader is active, **not to run a query against the entries in the data store that stores a plurality of entries associated with the multicast group**, as claimed.

Even if the entries, as recited in Claim 16, correspond to *Badovinatz*’ membership list, as the Office alleges, the Office’s contention that *Badovinatz*’ INQUIRY request corresponds to the request to run a query against the entries, as recited in Claim 16, is false because *Badovinatz*’ INQUIRY is not a query against a membership list. *Badovinatz*’ INQUIRY is sent to the prospective leader, not to the data store comprising multicast group entries, as claimed. *Badovinatz*’ INQUIRY is a request for an activity status from the prospective leader, not a request for entries in the data store that match the criteria specified in the request, as claimed, and not a request to determine which entries satisfy the matching criteria included in the query, as claimed.

B. *Badovinatz*’ INQUIRY request is sent by a member of the multicast group, not by a node that is not a member of the multicast group, as claimed.

None of the “inquiries” in *Badovinatz* are the request sent by a non-member, as recited in Claim 1. In *Badovinatz*, in order to select a new group leader, one or more processors of the

group scan a membership list to determine a prospective new leader. (*Badovinatz*: 5:50-55) Hence, the membership list is scanned (inquired) by the members of the group, not by a node that is not a member of the multicast group, as claimed.

Furthermore, in *Badovinatz*, to determine whether a prospective group leader is active, one or more group processors send an INQUIRY “IS MEMBER ACTIVE” to the prospective group leader. (*Badovinatz*: 5:62-65) Hence, in *Badovinatz*, the one or more processors that are members of the group send the INQUIRY request, not a node that is not a member of the multicast group, as claimed.

In one embodiment, the INQUIRY is handled by another subsystem, which sends a signal to the prospective group leader and awaits a response from the prospective group leader.

(*Badovinatz*: 6:1-9) However, *Badovinatz*’ signal to the prospective group leader to tests its activity cannot correspond to the request to run a query, as claimed, because *Badovinatz*’ signal does not cause running a query against the entries stored in the data store, as claimed. Hence, *Badovinatz* fails to anticipate “receiving a request ...” feature, as recited in Claim 16.

II. *Badovinatz* fails to describe:

disseminating one or more entries that satisfy the matching criteria to the node that is not a member of the multicast group, as claimed.

The Office alleges that the plurality of entries in the data store, as recited in Claim 16, corresponds to *Badovinatz*’ membership list stored in the memory (*Badovinatz*: 6:19-22), and that disseminating one or more entries that satisfy the matching criteria to the node that is not a member of the multicast group, as recited in Claim 16, is disclosed in *Badovinatz*’ column 6 (ll. 25-28) and column 8 (ll. 29-45), where *Badovinatz*’ describes that a “member to join” receives the membership list. (Final Office Action: page 4, ll. 18-20) This is incorrect because the allegation is based on clear factual errors.

The cited excerpts pertain to sending a membership list to a node that became a member of the group, **not to sending matching entries to a node is not a member**, as claimed.

In *Badovinatz*, a node that is a non-member can merely inquire a name of the server that is a group leader (*Badovinatz*: 7:21-24), send an INSERT REQUEST to the group leader (*Badovinatz*: 7:35-37), and, only upon being added to the list of members, the node, now as a member, can receive a membership list (*Badovinatz*: 8:29-45). Hence, if it is assumed that the entries in the data store, as recited in Claim 16, correspond to *Badovinatz*' membership list, then it is incorrect to contend that the matching entries are disseminated to a node that is not a member, as claimed. In *Badovinatz*, a membership list is disseminated only to the members, not to a node that is not a member. Hence, *Badovinatz* fails to anticipate "disseminating ..." feature, as recited in Claim 16.

The claims that are not discussed above depend directly or indirectly on the claims that have been discussed. Therefore, those claims are patentable for the reasons given above. In addition, each of the dependent claims separately introduces features that independently render the claim patentable. However, due to the fundamental differences already identified, and to expedite positive resolution of the examination, separate arguments are not provided for each of the dependent claims at this time.

For all the above reasons, reconsideration and withdrawal of the rejections of Claims 16-18-24, 26 and 28-39 is respectfully requested.

Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to the deposit account 50-1302.

Respectfully submitted,

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